

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL
RECEIVED

SEP - 2 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Petition of U S WEST Communications, Inc. for
a Declaratory Ruling Regarding the Provision of
National Directory Assistance

CC Dkt. No. 97-172

COMMENTS OF BELL ATLANTIC

Bell Atlantic¹ supports the request of U S WEST that the Commission deal with the legal issues raised by national directory assistance services in a coordinated manner rather than in response to individual complaints. Even though a decision on whether a particular service is consistent with the law will depend on an examination of specific serving arrangements and network architecture, there are legal questions that are common to all these services.

Two legal issues are at the heart of this dispute. The first is the scope of the "interLATA service" prohibition contained in section 271(a) of the Act. In defining this prohibition, Congress did not simply codify the existing MFJ interexchange prohibition, but instead wrote a new restriction, using new terms based on new definitions. This new restriction does not include a blanket prohibition on all national directory assistance services and allow the Bell companies to provide these services in certain ways. Second, directory assistance services are not enhanced services under the Commission's regulatory scheme, nor are they information services under the Act. Therefore, restrictions on enhanced or information services do not apply to them.

¹ The Bell Atlantic telephone companies serve residence and business customers from Maine to Virginia.

No. of Copies rec'd
List ABCDE

O+S

Section 271(a) Only Prohibits a Bell Company From Providing InterLATA Transmissions, and It Prohibits Nothing More.

Section 271(a) prohibits a Bell company from providing “interLATA services.”

That term is defined in section 3(21) as “telecommunications between a point located in a local access and transport area and a point outside such area.” “Telecommunications” is, in turn, defined in section 3(43) as “the transmission, between or among points specified by the user, of information of the user’s choosing” Putting the two definitions together, the prohibited “interLATA service” is a “transmission between points specified by the user located in a local access and transport area and outside such area.” Therefore, unless the BOC provides transmission of information between LATAs, there is no “interLATA service.” If a service involves no interLATA transmission, it is not prohibited by section 271(a).

As described in the papers filed with the Commission, some of the national directory assistance services at issue involve no interLATA transmissions at all.² In these cases, all the relevant locations are in the same LATA, and there are, therefore, no transmissions between LATAs. These services cannot violate section 271(a).

It is true that the decree court interpreted its interexchange restriction more broadly than this — as extending beyond “transmissions” to include other functions and services.³ Congress, however, did not codify the decree interexchange restriction, which it easily could have done.⁴ It did not even borrow the terminology from the decree relating to this restriction, either the

² E.g., Answer of Ameritech ¶ 52 in *MCI Telecommunications Corp. v. Illinois Bell Tel. Co.*, File No. E-97-19 (dated May 27, 1997).

³ *United States v. Western Elec. Co.*, 627 F. Supp. 1090, 1100 (D.D.C. 1986).

⁴ In the case of another decree restriction, Congress simply defined “manufacturing” by reference to that term’s meaning under the decree. Section 273(h).

language of the restriction itself⁵ or the definitions that gave the restriction meaning.⁶ Congress, therefore, did not transfer the decree restriction into the Act. MCI is simply wrong when it asserts that “cases construing the interLATA service restriction in the MFJ provide useful guidance in determining what activities constitute the provision of in-region interLATA service”⁷ because the words of the Act are different from the words of the decree.

As shown above, where there is no interLATA transmission, there can be no interLATA service. Even where interLATA transmissions *are* involved, a national directory assistance service does not necessarily violate section 271. Even under the decree, a Bell company could carry a variety of interLATA transmissions, and section 271(f) permits a Bell company to do under the Act anything that was permitted under the decree. For example, Judge Greene ruled in 1983 that the decree permitted a Bell company to operate its own interLATA information processing network, which would transmit information necessary for carrying out that company’s business.⁸ This would permit a Bell directory assistance operator to retrieve information from a database located in a distant LATA.⁹ In that same decision, the decree court concluded that a Bell company could also carry across LATA boundaries “directory assistance calls from Operating

⁵ The decree prohibited the provision of “interexchange telecommunications services.” Decree § II(D)(1).

⁶ The decree contains definitions of “telecommunications,” “interexchange telecommunications” and “telecommunications service.” Decree §§ IV(O), (K), (P).

⁷ Complainant’s Initial Brief at 13 in *MCI Telecommunications Corp. v. Illinois Bell Tel. Co.*, File No. E-97-19 (dated July 1, 1997).

⁸ *United States v. Western Elec. Co.*, 569 F. Supp. 1057, 1098 n.179 (D.D.C. 1983).

⁹ The decree court recognized that the Bell companies had “achieve[d] operational efficiencies” by consolidating and centralizing directory assistance operations to “serve geographical areas which are larger than individual LATAs.” *Id.* at 1098.

Company customers.”¹⁰ This would permit a Bell company to deliver a customer’s call to a directory assistance operator in another LATA. Thus, the decree, and therefore the Act, permit a Bell company to provide directory assistance services using operators and databases that are not in the same LATA as the customer.

National Directory Assistance Is Not an Enhanced Service or an Information Service.

The Commission has long held that directory assistance, except for directory assistance with a reverse search capability, is adjunct to basic — it is not an enhanced service. The Commission’s *N11 Order* places restrictions on an exchange carrier’s use of 411 to provide enhanced services.¹¹ These restrictions do not apply to directory assistance, local or national.

The Commission has also concluded that services that are adjunct to basic are not information services as defined in section 3(20) of the Act.¹² Because national directory assistance is not an information service, the requirements of section 272 do not apply, and a Bell telephone company may provide the service directly rather than through a separate affiliate.

¹⁰ *Id.* at 1098 n.179.

¹¹ *Use of N11 Codes and Other Abbreviated Dialing Arrangements*, 12 FCC Rcd 5572, 5601 ¶ 48 (“a LEC may not itself offer enhanced services using a 411 code, or any other N11 code, unless that LEC offers access to the code on a reasonable nondiscriminatory basis to competing enhanced service providers”).

¹² *Non Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as Amended*, 11 FCC Rcd 21905, 21958 ¶ 107 (1996).

Conclusion

A declaration by the Commission on these points would resolve most if not all the controversies surrounding these services, and Bell Atlantic urges the Commission to promptly issue such a declaration.

Respectfully submitted,


John M. Goodman

Attorney for the Bell Atlantic
telephone companies

1300 I Street, N.W.
Washington, D.C. 20005
(202) 336-7874

Edward D. Young, III
Michael E. Glover
Of Counsel

Dated: September 2, 1997